

City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
May 5, 2004

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Mayor David Dermer
Vice-Mayor Saul Gross
Commissioner Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Jose Smith
Commissioner Richard L. Steinberg

Arrived at 5:20:20 p.m.

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney

- PA1 Cert. of Apprec./Rosa Cartas, Helping the Elderly in Miami Beach. (Bower)
PA2 Cert. of Apprec./March & April, 2004 "At Your Service Award."
PA3 Cert. of Apprec./Maxine Reyes, selected "Military Person of the Year" by GMCC.
PA4 **4:45 p.m.** Cert. of Apprec./MB Parks & Rec X-Treme Team Members & Coaches. (Steinberg)
PA5 **10:05 a.m.** Proclamation/ "National Tourism Week 2004."
PA6 Cert. of Apprec./Pablo Cejas, for Serving on the Planning Board. (Dermer)
PA7 Cert. of Apprec./Miguel Montalvo & Emilet Valiere, MDC, for Beach Maintenance Efforts. (Smith)
PA8 Cert. of Apprec./Indiv. who Participated in Free Dental Scrng/Biscayne & Treasure Island. (Bower)
PA9 **New Item** Proclaim May 10-14, 2004 "Municipal Clerk's Week."
- C2A Reject All Bids/Bid No.15-03/04, for Wide Area Network (WAN) Comm. Services.
C2B Reject All Bids/Bid 63-02/03, for Purchase & Delivery of Polymer Meter Boxes, etc.
- C4A Ref: Finance & Citywide Projects Committee/Disc. Re: 2620 Biarritz Drive Waterfront Property Sale.
- C6A Report: Finance & Citywide Projects Committee Meeting of March 15, 2004.
C6B Report: Finance & Citywide Projects Committee Meeting of April 6, 2004.
C6C Report: G.O. Bond Oversight Committee Meeting of April 12, 2004.
C6D Report: Land Use & Development Committee Meeting of Aril 12, 2004.
- C7A Submit Grant Applications (Retro) to Various Funding Agencies.
C7B Submit Grant App. (Retro) to FIND – Waterways Assist. Program/Citywide Seawalls Const.
C7C Setting Public Hearing to Consider Transfer of Funds from MDC Safe Neigh. Parks Bond.
C7D Authorize Agreement w/ EDAW for Services/Flamingo Park/Prop. Mgmt. Impv. - \$149,689.
C7E Proclaiming May 10-14, 2004 "Municipal Clerk's Week."
C7F Setting Public Hearing/Cons. Establishment/Res. Parking Permit Zone, 13/Lower West Ave.
C7G Ratify Contract to Miami Stagecraft, Inc - Byron Carlyle Theater - \$42,875.
C7H Ratify Contract to Artistry In Glass - Byron Carlyle Theater - \$41,455.60.

C7I **S-Execute Termination/Abandonment of Easement Agmt/Crown Hotel/4041 Collins Ave.**

REGULAR AGENDA

- R2A BA 34-02/03 - Award Contracts to Vendors/Citywide Janitorial Services - \$797,915.
- R5A **10:15 a.m. 2nd Rdg**, Amend No. 789, FOP - Classified Employees Salary Ordinance
R5B **10:20 a.m. 2nd Rdg**, Amend No. 789, IAFF - Classified Employees Salary Ordinance
R5C **10:25 a.m. 2nd Rdg**, Amend No. 1605, Unclassified Employees Salary Ordinance
R5D **10:30 a.m. 2nd Rdg**, Amend No. 789, Classified Employees Salary Ordinance, Group VI.
R5E **5:15 p.m. 2nd Rdg**, Eliminate Dance Halls/Entertainment Establishments in Certain Districts. **5/7**
R5F **1st Rdg**, Amend Code - Art in Public Places Legislation.
R5G **1st Rdg**, Amend Code "Prohibited Campaign Contributions by Vendors."
- R6A **New Item** Verbal Report/Neighborhood Services/Community Affairs Committee, April 29, 2004.
R7A **Joint**, Execute Interlocal Agmt w/ RDA & MDC – Establish Use of Tax Increment Revenue.
R7B **2:00 p.m. 1st Rdg**, Approve Agmt Act w/ AR&J SOBE, LLC (AKA Potamkin/Berkowitz)/5th & Alton.
R7C **5:01 p.m.** Approve Temporary Restricted Residential Parking Permit Zone (14/Belle Isle).
R7D Adopt Five-Year Master Plan & Guidelines – Art In Public Places.
R7E **6:00 p.m.** Exec. Perpetual Easement w/ FDOT – Brittany Bay Park (63rd St & Indian Creek Dr.)
R7F Authorize Payment/MD Library System (\$2M) per Interlocal Coop. Agmt dated 6/21/96.
R7G **11:15 a.m.** Approve Capital Project List & Priorities -MDC 2004 GO Bond Program.
- R9A Board and Committee Appointments.
R9A1 Nominate Maria Bonta De La Pezuela to the Arts in Public Places Committee. (Steinberg)
R9A2 Appointment to Board of Adjustment (2 At-Large).
R9A3 Reappoint Commissioner Bower to Performing Arts Center Trust. (Dermer)
R9A4 Nominate Carl Linder to the Board of Adjustment. (Garcia)
R9B(1) **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9B(2) **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9C **6:00 p.m.** Disc. Traffic Analysis Report on Indian Creek Drive at 63rd & 65th Street Intersections.
R9D **5:05 p.m.** Public Input re: "NOPD" for DRI District Expansion of NW Quadrant Watson Island.
R9E **2:30 p.m.** Pres. – Proposed Planning Initiatives 04-05 Term. (V. Diaz, Chair) (Bower)
R9F **11:00 a.m.** Disc. Waiver of Conflict of Interest by Akerman Senterfitt, P.A.
R9G Disc. Re: Commission Retreat, Saturday, May 8, 2004.
R9H Disc. Re: Urging Gov. Bush to Veto State Budget Line Items/Impact MDC Schools. (Bower)
R9I Disc. Re: Negotiating Contract for Public Relations Services. (Gross)
- A City Attorney's Status Report
B Status Report on Fire Station No. 2.
C Status Report on Fire Station No. 4.
D **11:15 a.m.** Presentation – Funding Status for Projects Managed by CIP.

REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 2A Report of Itemized Revenues/Expenditures of RDA for Month of March 2004.
3A **Joint**, Execute Interlocal Agmt w/ RDA & MDC – Establish Use of Tax Increment Revenue.
3B Approp. Funds to Construct Surface Prkg Lot – 137 Washington Ave. & Upgrade 1672 Lennox.

Meeting called to order at 9:26:27 a.m.

Invocation given by Reverend Garth Thompson, Miami Beach Community Church.

Pledge of Allegiance led by Chief De Lucca.

Times based on the digital recording in the City Clerk's Office

Addendum items: C7I, R9A4, and R6A.

ACTION: Motion made by Commissioner Garcia to add Addendum items C7I (re-designated as R7H), R9A4 and R6A, as emergency items, by 5/7 vote, to the agenda; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Cruz.

Supplemental Materials:

C7A (Resolutions), C7C (Resolution), R7G (Replacement Material), D (PowerPoint presentation).

PA - Presentations and Awards

9:39:58 a.m.

PA1 Certificate Of Appreciation To Be Presented To Rosa Cartas For Her Dedication In Helping The Elderly In Miami Beach.

(Requested by Commissioner Matti Herrera Bower)
(Deferred from April 14, 2004)

ACTION: Certificate presented.

9:54:48 a.m.

PA2 Certificates Of Appreciation To Be Presented To Employee Of The Month "At Your Service Award" Winners For March And April 2004.

(City Manager's Office)

ACTION: Certificates presented to Maria Alvarez, Public Works Department for the month of March 2004, and Liliam Hatfield, Office of the City Clerk, for the month of April 2004. Fred Beckmann, Public Works Director and Robert Parcher, City Clerk, spoke.

10:02:48 a.m.

PA3 Certificate Of Appreciation To Be Presented To Maxine Reyes, Human Resources Department For Having Been Selected As The "Military Person Of The Year" By The Greater Miami Chamber Of Commerce.

(City Manager's Office)

ACTION: Certificate presented.

Commissioner Garcia recommended that a military honor roll be set up in City Hall to recognize those individuals who are in the military and called to active duty. **Nannette Rodriguez to handle.**

5:06:05 p.m.

PA4 Certificates Of Appreciation To Be Presented To The Members And Coaches Of The Miami Beach Parks And Recreation's X-Treme Cheerleading Team For Their Outstanding Success In Placing First In Their Division At The National Cheerleading Association/National Dance Association Big Apple Classic Competition Held In New York City On March 13, 2004.

(Requested by Commissioner Richard Steinberg)

ACTION: Certificates presented to Jacqueline Austen, Lauren Azicri, Bianca Behar, Belza Beausoleil, Jessenia Cardoso, Michelle Comptis, Daniella Fernandez, Calupso Gibaldi, Joselyn Martinez, Samantha Plotkin, Candice Restani, Stephanie Santana, Tatjianna Soto, Jessica Dopico, Esther Santamaria, Jose Valera, and Ivan Rodriguez.

The team was coached by Tracey Austen, Recreation Leader II and Theresa Buigas, Recreation Leader I.

10:06:48 a.m.

PA5 Proclamation To Be Presented In Recognition Of National Tourism Week 2004.

(Greater Miami Convention & Visitors Bureau)

ACTION: Proclamation presented.

Mayor Dermer stated that this is the best year the City has had in Resort Tax.

Mr. Bill Talbert, President and CEO, Greater Miami Convention and Visitors Bureau, spoke.

PA6 Certificate Of Appreciation To Be Presented To Pablo L. Cejas For Serving On The Planning Board.

(Requested by Mayor David Dermer)

ACTION: Item deferred.

9:47:39 a.m.

PA7 Certificates Of Appreciation To Be Presented To Miguel Montalvo And Emilet Valiere From Miami-Dade County, For Going Beyond Their Call Of Duty By Maintaining Our Beaches.

(Requested by Commissioner Jose Smith)

ACTION: Certificates presented.

Handout or Reference Material

1. Copy of a color photo of a Miami-Dade County worker cleaning the beach dunes.

9:51:38 a.m.**NEW ITEM****Relay for Life Event**

Mayor Dermer introduced the item.

A Relay for Life video was shown.

9:42:49 a.m.

PA8 Certificates Of Appreciation To Be Presented To Several Individuals For Their Leadership And Participation In The Free Dental Screening Program At Biscayne Elementary And Treasure Island Elementary.

(Requested by Commissioner Matti Herrera Bower)

ACTION: Certificates presented to Teddy Herrell, Jr., Operations & Management Consultant, Dreyfus Health Foundation, Roslyn Muhlrad, MS., Student Services, Biscayne Elementary School, and Jessica Perlmutter, Associate Director, United Way.

9:28:08 a.m.

PA9 Proclamation To Be Presented To Robert Parcher, City Clerk, Proclaiming May 10th through May 14th As Municipal Clerk's Week.

ACTION: Proclamation presented.

Dr. Morris Sunshine, Sidney Golden, Erika Brigham, Gary Knight, and David Kelsey spoke.

Dr. Sunshine stated that the following individuals were unable to attend: Don and Nina Worth, Michael Larkin, Gerald K. Schwartz, Steve Zack, Frank Del Vecchio, and Jeff Bercow.

NEW ITEM:

4:31:04 p.m.

Luis Salom, Coach for the Miami Beach Sharks Baseball Team, announced that the team won the USSS Baseball World Series qualifier a couple of weeks ago. He stated that this is the first time in the history of Miami Beach that a baseball team is going to the World Series. The team needs to fly 12 kids to Kansas; this team is one of six teams representing each state in the World Series.

Mayor Dermer stated that perhaps some Nightlife Industry present will open up their hearts and their wallets to support the team and help fly the kids to Overland, Kansas, for the World Series.

Luis Salom, Coach for the Miami Beach Sharks Baseball Team, announced that Roman Jones, from Opium Gardens, offered to pay \$12,000 for the team to fly to Kansas. He thanked Mr. Jones for his donation and stated that 80% of the kids are "A" students, underprivileged kids and their parents cannot afford to send them, and this donation has made this possible for them. He continued saying that on May 15, 2004 they are in the South Florida Travel League Baseball playoffs that is run by baseball icons, Patato Pascual and Juan Pascual. He presented the City with a plaque from the World Series qualifier, and recognized and thanked Kevin Smith, Parks and Recreation Director, Julio Magrisso, Parks and Recreation Assistant Director, and Boris Rodriguez for their commitment to the kids. He also stated that this qualifies the City of Miami Beach to have the World Series here next year.

4:54:24 p.m.

Mayor Dermer stated that the City of Miami Beach is honored to have the First Lady of Florida Columba Bush with us today. He stated that Columba Bush has worked over two decades to promote education, art appreciation, substance abuse prevention in Florida and throughout the nation. She started the Art Recognition Program in the State of Florida. She currently serves on the Board of Columbia University's Center Addiction and Substance Abuse. She co-founded the Cultural Education Fund of the Folkloric Ballet of Mexico. He recognized Jorge Lomonaco, Mexico's Consul General and proclaimed today Miami Beach Mexico Day.

Columba Bush, First Lady of Florida, thanked the City Commission and stated she is delighted to be here celebrating "Cinco de Mayo."

CONSENT AGENDA

ACTION: Motion made by Commissioner Garcia to approve the Consent Agenda; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Cruz.

C2 - Competitive Bid Reports

- C2A Request For Approval To Reject All Bids Received In Response To Invitation To Bid No. 15-03/04 For Wide Area Network (WAN) Communication Services.(Information Technology)

ACTION: Bids rejected. Gus Lopez to notify the bidders.

- C2B Request For Approval To Reject All Bids Received In Response To Invitation To Bid No. 63-02/03 For The Purchase And Delivery Of Polymer Meter Boxes And Covers.
(Public Works)

ACTION: Bids rejected. Gus Lopez to notify the bidders. Fred Beckmann to revise specification. Gus Lopez to issue the new bid.

C4 - Commission Committee Assignments

- C4A Referral To The Finance And Citywide Projects Committee - Discussion Regarding The Sale Of Waterfront Property Located At 2620 Biarritz Drive, Miami Beach, Florida.)
(Economic Development)

ACTION: Referred. Patricia Walker to place on the committee agenda. Christina Cuervo and Gus Lopez to handle.

C6 - Commission Committee Reports**10:15:47 a.m.**

See Replacement Report Distributed on the Commission Floor.

C6A Report Of The Finance And Citywide Projects Committee Meeting Of March 15, 2004: **1)** Discussion Regarding The Review, Assessment, And Recommended Structure Of The Greater Miami Convention And Visitors Bureau Conducted By Economic Research Associates (ERA); **2)** Discussion Regarding A Proposed Multi-Purpose Space Expansion To The Miami Beach Convention Center; **3)** Discussion Regarding The Colony Theatre Project; **4)** Discussion Regarding The Lists Of Projects To Be Considered For Inclusion In The Miami-Dade General Obligation Bond Issue; And **5)** Second Amendment To The Interlocal Agreement Between The City Of Miami Beach And Miami-Dade County.

ACTION: Item separated for discussion by Commissioner Steinberg. Item adopted as amended. Motion made by Commissioner Steinberg; seconded by Commissioner Gross: Voice vote: 6-0; Absent: Commissioner Cruz.

Amendment: New Business - # 2 – correction to the new language added “....parking and the availability of lets funds to meet”.

Item 1.

The Committee instructed the Administration to review and analyze the GMCVB's latest contract to rate how they have fulfilled their obligations; and compare the City's Consultant Report in conjunction with Miami-Dade County's and the GMCVB's Strategic Plan. **Christina Cuervo to handle.**

Item 2.

The Committee instructed the Administration to report back to a future Finance and Citywide Projects Committee meeting with a cost benefit analysis that will explain and quantify all the different options available. **Christina Cuervo to handle.**

Item 3.

The Committee instructed the Administration to proceed with the meeting scheduled tomorrow, March 16, 2004, with the State of Florida Department of Management Services (DMS), R.J. Heisenbottle Architects (RJHA), and McCartney Construction Company (McCartney) and report back to the City Commission and Miami Beach Redevelopment Agency Board at the March 17, 2004 meeting.

Item 4.

The Committee instructed the Administration to bring back to a future Finance and Citywide Projects Committee meeting a shortlist of projects to be considered for inclusion in the Miami-Dade County General Obligation Bond Issue prioritized on a regional basis. See Agenda item R7G.

Item 5.

No action necessary.

Handout or Reference Materials

1. Replacement Commission Memorandum

C6B Report Of The Finance And Citywide Projects Committee Meeting Of April 6, 2004: **1)** Discussion Regarding An Ordinance Amending Chapter 142 "Land Development Regulations" Of The City Code, Division 7, "CCC, Civic And Convention Center District," In Order To Allow Waivers Of Development Regulations By A Five-Sevenths Vote Of The City Commission For Developments Pertaining To Government-Owned Or Leased Buildings, Uses And Sites Which Are Wholly Used By, Open And Accessible To The General Public, Or Used By Not-For-Profit, Educational, Or Cultural Organizations, Or For Convention Center Hotels, Or Convention Center Hotel Accessory Garages, Or City Utilized Parking Lots; **2)** Review And Discussion Of The Proposed Purchase Of The Property Located At 1833 Bay Road, Miami Beach, Florida; **3)** Discussion Regarding The Renewal Option Provisions Set Forth In Section 2 Of The Management Agreement Between The City Of Miami Beach And The Miami Beach Garden Conservancy, Inc., Which Provide For An Extension Period Of Two (2) Years, Unless The City Manager Provides Notice 60 Days Prior To Expiration, For The Management And Operation Of The Miami Beach Botanical Garden, Pursuant To The Renewal Option Provisions Set Forth In Section 2 Of The Management Agreement; **4)** Discussion Regarding The Development And Implementation Of A Citywide Corporate Marketing And Sponsorship Program; **5)** Discussion Regarding An Amendment To Section 2-369 Of The City Code Relative To The Utilization Of Contracts Awarded By The U.S. Communities Government Purchasing Alliance; And **6)** Review Of Current Policies Regarding Homeless, Vagrants And Prostitutes.

ACTION:

Item 1.

The Administration was instructed to return to a future meeting of the Finance and Citywide Projects Committee to discuss and analyze the different alternatives available in order to meet the parking requirements of the Civic and Convention Center District.

Item 2.

No action necessary. Item will be discussed at the April 14, 2004 City of Miami Beach Commission Meeting.

Item 3.

The Committee recommended that the Administration proceed with renewing and extending the agreement between the City of Miami Beach and the Miami Beach Garden Conservancy, Inc. for a period of three years.

See Resolution No. 2004-25534 adopted April 14, 2004.

Item 4.

No action necessary. Item will be discussed at the April 14, 2004 City of Miami Beach Commission Meeting.

Withdrawn from the April 14, 2004 Commission Meeting because of a bid protest.

Item 5.

The Committee moved the item to the full Commission. **Gus Lopez to handle.**

Item 6.

The Committee moved the item to the full Commission; recommending the Administration identifies a funding source for homeless outreach efforts for the remainder of the fiscal year and that the Administration provide comparative statistical information from the previous fiscal year in order to analyze and compare outreach efforts for this fiscal year. **Vivian Guzman to handle.**

C6C Report Of The General Obligation Bond Oversight Committee Meeting Of April 12, 2004: **1)** Change Order Report; **2)** Recommendation To City Commission: a) A/E Award For Flamingo Park/Property Management Yard Project; **3)** Project Status Report: a) Fire Station No. 2; b) Fire Station No. 4; c)

Normandy Isle Park And Pool; And **4)** Informational Items: a) Updated Calendar Of Scheduled Community Meetings; b) South Pointe Park A/E Rejection.

ACTION:

Item 1.

The Administration informed the Committee that two new change orders had been approved since the last meeting. A list of the change orders approved to date is attached as "Exhibit A".

Item 2.

The Administration provided to the Committee a memorandum seeking the Committee's recommendation to the City Commission for the award of an A/E agreement to EDAW for Planning Service for the Flamingo Park and Property Management Yard project. A Request for Qualifications (RFQ) had been issued in August of 2002 for the A/E services. EDAW was the highest ranked firm, and on December 11, 2002, the City Commission authorized the Administration to begin negotiations with EDAW. Initial negotiations sessions were held in January and February 2003, at which time substantial agreement was reached regarding fees and scope. The negotiations were put on hold while the Administration considered the relocation of the Property Management Yard to another location within the City, which would affect the scope and fees associated with the A/E services. A final determination was made in November 2003 that the Property Management Yard would not be relocated to another site.

The City negotiated a fee of \$159,689 for EDAW for the Planning services only. During the negotiation sessions, approximately \$6.5 million worth of improvements for the project were identified. Because the budget for construction is closer to \$4 million, it was determined that the best way to proceed would be to award just the Planning services at this time, and design services could be negotiated once the scope was narrowed down.

The Administration informed the Committee that there was one part of the negotiated fee that the City did not recommend awarding. The fee of \$159,689 included a fee of \$79,151 for EDAW as the prime consultant, \$22,195 for an architecture sub-consultant, \$28,546 for an engineering sub-consultant, \$1,000 for an irrigation sub-consultant, and \$28,797 for a design sub-consultant. EDAW had proposed using a firm named EMBT as the design sub-consultant. EMBT is a firm located out of Barcelona, Spain, and \$10,000 of the \$28,797 fee would be used for travel back and forth between Spain and Miami Beach. EMBT would be focusing on the design of signature site features such as fountains, entry features and other potentially unique site elements.

Because the improvements already identified exceeded the funding available to construct the project, the Administration did not recommend using a firm that would require that \$10,000 in project funds be spent on travel for a sub-consultant. The Administration informed the Committee that it felt that EDAW was qualified to perform such work. As an alternative to using EMBT, EDAW identified a fee of \$18,782 to perform the work themselves. The Administration recommended to the Committee that they recommend to the City Commission the award of the A/E agreement to EDAW in the amount of \$149,674, which would use EDAW as the consultant for design instead of EMBT. EDAW stated that they would keep EMBT as a member of the team and find a way of funding the travel independently. After discussion, the Committee approved the motion to recommend that the City Commission award the agreement to EDAW in the amount of \$149,674, as the Administration had recommended.

See Agenda Item C7D.

Item 3.

The Administration informed the Committee that construction was proceeding on schedule for Phase I of the **Fire Station No. 2** project (water tanks portion). The electrical service to the water tanks was completed, and the contractor was awaiting an emergency backup generator. The construction of the Fire Station portion of the project would begin after the completion of Phase I.

The Committee was told that the permits review for the **Fire Station No. 4** project has been completed. The City had received permit approval from the Department of Environmental Resource Management (DERM), and was awaiting building permit approval from the City's Building Department, which would hopefully be received in the next week or two. Demolition would be scheduled to begin once the permits were issued, and the project would be put out to bid, with construction to start in the Summer of 2004. **Tim Hemstreet to handle.**

The Administration informed the Committee that the compliance issues for the **Normandy Isle Park and Pool** project have been addressed, and the design issues were also resolved. Work is again proceeding. The Administration is negotiating the removal of the Park portion of the project from the Contractor's scope so it can be issued to another contractor. **Tim Hemstreet to handle.**

Item 4.

The updated calendar of community meetings was presented to the Committee, but not reviewed during the meeting.

The Administration presented the Committee with the City Commission item from February 25, 2004 where all of the proposals received in reference to Request for Qualifications (RFQ) 16-02/03 for the Planning, Design and Construction Administration Services needed to complete the South Pointe Park Improvement Project were rejected.

C6D Report Of The Land Use And Development Committee Meeting Of April 12, 2004: **1)** Discussion Regarding Parking In Historic District; And **2)** Discussion Regarding Regulations Concerning Excess Parking.

ACTION:

Item 1.

See item no. 2.

Item 2

Refer both items to the Planning Board for further discussion and a recommendation to the City Commission (Motion by Commissioner Gross, seconded by Commissioner Bower: 4-0 vote). **Jorge Gomez to place on Agenda.**

C7 - Resolutions**SUPPLEMENTAL MATERIAL – (Resolution)**

C7A A Resolution Retroactively Authorizing The City Manager Or His Designee To Submit Grant Applications To The Following Funding Agencies: 1) The State Of Florida Department Of Transportation, Transportation Enhancement Program For Funds In The Amount Of \$1,000,000 For The East-West Connectors To The Atlantic Corridor; 2) Miami-Dade County Safe Neighborhood Parks Bond Interest Earnings Program For Funding In An Amount Not To Exceed \$150,000 For Renovations To North Shore Park And Youth Center; 3) Miami Dade County Capital Development Program For Funding In An Amount Not To Exceed \$50,000 For Renovations To The Byron Carlyle Theater; 4) Visitor And Convention Authority For Funding In An Amount Not To Exceed \$20,000 For The City's July 4, 2004 Event; 5) Visitor And Convention Authority For Funding In An Amount Not To Exceed \$20,000 For The City's Camp Miami Beach Program; 6) The Children's Trust For Funding In An Amount Not To Exceed \$126,500 For Operating Funds For The City's Parks And Recreation Department Summer Programs; 7) Land And Water Conservation Fund For Funding In An Amount Not To Exceed \$200,000 For Funds For The North Beach Recreational Corridor (Bandshell Park); 8) The Department Of The Interior, Save America's Treasures Program For Funding In An Amount Not To Exceed \$300,000 For Funds For The Renovation Of Old City Hall; 9) Miami-Dade County Tourist Development Council For Funding In An Amount Not To Exceed \$15,000 For The City's July 4, 2004 Event; 10) Miami-Dade County Landscape Committee For Funds In An Amount Not To Exceed \$150,000 For Funds For Landscaping Along Alton Road; While Leveraging Previously Appropriated City Funds As Needed; Further Appropriating The Grants If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To These Applications.

(Grants Management)

ACTION: Resolution No. 2004-25552 adopted. Patricia Walker to appropriate the funds if awarded and accepted by the City. Judy Hoanshelt to handle.

C7B A Resolution Retroactively Authorizing The City Manager Or His Designee To Submit A Grant Application To The Florida Inland Navigation District (FIND), Waterways Assistance Program, For Funds, In An Amount Not To Exceed \$400,000, To Be Matched With \$400,000 Of City Funding From The Approved \$92 Million General Obligation Bond Program, For Funds For The Construction Of Citywide Seawalls, While Leveraging Previously Appropriated City Funds, As Needed; Further Appropriating The Grant If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To This Application.

(Grants Management)

ACTION: Resolution No. 2004-25553 adopted. Patricia Walker to appropriate the funds if awarded and accepted by the City. Judy Hoanshelt to handle.

SUPPLEMENTAL MATERIAL – (Resolution)

C7C A Resolution Setting A Public Hearing For The May 26, 2004 City Commission Meeting, To Consider Transferring Funds In The Amount Of \$200,000 From The Approved Miami-Dade County Safe Neighborhood Parks Bond Fund Program, Series 99 North Shore Open Space Park Project To The Series 99 Beaches And Boardwalk, North Beach Recreational Corridor Project; While Leveraging Previously Appropriated City Funds As Needed; Further Appropriating All Necessary Funds And Authorizing The Execution All The Necessary Documents.

(Grants Management)

ACTION: Resolution No. 2004-25554 adopted. Public Hearing scheduled for May 26, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Judy Hoanshelt to handle.

C7D A Resolution Authorizing The Execution Of An Agreement With EDAW, Inc. In The Amount Of \$149,689 For The Provision Of Planning, Architecture, Landscape Architecture, And Engineering Services

Required To Complete The Planning Phase Of The Flamingo Park/Property Management Yard Improvement Project.

(Capital Improvement Projects)

ACTION: Resolution No. 2004-25555 adopted. Tim Hemstreet to handle.

C7E A Resolution Proclaiming May 10, 2004 Through May 14, 2004 Municipal Clerk's Week.
(City Clerk's Office)

ACTION: Resolution No. 2004-25556 adopted.

C7F A Resolution Setting A Public Hearing To Consider The Establishment Of Restricted Residential Parking Permit Zone 13/Lower West Avenue, With Boundaries As Follows: On The South, The Centerline Of 5th Street; On The North, The Centerline Of 13th Street; On The East By Alton Court; And On The West, The Westerly Line Of West Avenue.
(Parking Department)

ACTION: Resolution No. 2004-25557 adopted. Public Hearing scheduled for May 26, 2004 at 5:01 p.m. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Saul Frances to handle.

C7G A Resolution Ratifying A Contract In The Amount Of \$42,875, Awarded To Miami Stagecraft, Inc., For The Development Of Electrical Engineered Construction Documents And The Installation Of Theater House And Stage Lighting Equipment And Materials Required For The Byron Carlyle Theater.
(Public Works)

ACTION: Resolution No. 2004-25558 adopted.

C7H A Resolution Ratifying A Contract In The Total Amount Of \$41,455.60 To Artistry In Glass, For The Installation Of Custom Made Glass Handrails, Regular Handrails, And Custom Made Mirrors Required For The Byron Carlyle Theater.
(Public Works)

ACTION: Resolution No. 2004-25559 adopted.

12:00:18 p.m.

ADDENDUM ITEM

C7I Redesignated R7H. See action R7H.

NEW ITEM:

12:41:41 p.m.

Robert Parcher, City Clerk, announced that the City Clerk's Office is looking for replacement chairs for the Commission Chamber. Six demonstration chairs are available for sampling in the Mayor's Conference Room.

End of Consent Agenda
REGULAR AGENDA

R2 - Competitive Bid Reports

4:37:39 p.m.

R2A Request For Approval To Award Contracts To Primary And Secondary Vendors As Stated Herein, For Providing Citywide Janitorial Services Pursuant To Invitation To Bid No. 34-02/03, In The Estimated Annual Amount Of \$797,915.)

(Public Works)

ACTION: Award approved. Motion made by Vice-Mayor Gross; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz. Gus Lopez, Fred Beckmann, and Saul Frances to handle.

Jorge Gonzalez, City Manager, presented the item.

Commissioner Bower stated that she is concerned that the current employees with the current company [Best Maintenance] at City Hall will be losing their jobs after working here 7 or 8 years. She asked if there is anything that can be done.

Jorge Gonzalez, City Manager, stated that this bid includes the provisions of the living wage ordinance and is 42% or \$265,000 a year more expensive. He added that he and Gus Lopez, Procurement Director, have talked with the lowest bidder who is willing to hire the current employees pending a background check. He stated that he will be happy to meet with the lowest bidder to confirm the prior understanding and that the sentiment of the Commission is expressed. **Gus Lopez to handle.**

R5 - Ordinances

10:36:42 a.m.

R5A An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The Fraternal Order Of Police (FOP) In Accordance With The Negotiated Agreement A 3% Increase For All FOP Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All FOP Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification. **10:15 a.m. Second Reading, Public Hearing.**

(Human Resources)

(First Reading on April 14, 2004)

ACTION: Public Hearing held. **Ordinance Number 2004-3441 adopted.** Motion made by Commissioner Bower, seconded by Commissioner Smith; Ballot vote: 6-0; Absent: Commissioner Cruz. Mayra Buttacavoli to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

10:38:18 a.m.

R5B An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For Those Classifications Represented By The International Association Of Firefighters (IAFF) In Accordance With The Negotiated Agreement A 3% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 5, 2003, And Effective The Payroll Period Ending October 3, 2004; And A 3.5% Increase For All IAFF Bargaining Unit Employees And An Increase Of 3.5% To The Minimum And Maximum Of The Salary Ranges Effective The Payroll Period Ending October 9, 2005; Repealing All Ordinances In Conflict; Providing For Severability; And Providing For An Effective Date, And Codification. **10:20 a.m. Second Reading, Public Hearing**
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(Human Resources)
(First Reading on April 14, 2004)

ACTION: Public Hearing held. **Ordinance Number 2004-3442 adopted.** Motion made by Commissioner Bower, seconded by Commissioner Steinberg; Ballot vote: 6-0; Absent: Commissioner Cruz. Mayra Buttacavoli to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

10:40:50 a.m.

R5C An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance; Providing For A 3% Increase For All Unclassified Employees And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Unclassified Employees And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification. **10:25 a.m. Second Reading, Public Hearing.**

(Human Resources)
(First Reading on April 14, 2004)

ACTION: Public Hearing held. **Ordinance Number 2004-3443 adopted.** Motion made by Commissioner Bower, seconded by Vice-Mayor Gross; Ballot vote: 6-0; Absent: Commissioner Cruz. Mayra Buttacavoli to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

10:42:06 p.m.

R5D An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance, For Classifications In Group VI, Being All Other Classifications In The Classified Service Not Covered By A Bargaining Unit; Providing For A 3% Increase For All Employees In Group VI, "Others," And A 3% Increase To The Minimum And The Maximum Of The Salary Ranges Effective May 3, 2004, And Effective The First Payroll Period Beginning On Or After May 1, 2005; A 3.5% Increase For All Employees In Group VI, "Others," And A 3.5% Increase To The Minimum And The Maximum Of The Salary Ranges Effective The First Payroll Period Beginning On Or After May 1, 2006; And Providing For A Repealer, Severability, Effective Date, And Codification. **10:30 a.m. Second Reading, Public Hearing.**

(Human Resources)
(First Reading on April 14, 2004)

ACTION: Public Hearing held. **Ordinance Number 2004-3444 adopted.** Motion made by Commissioner Bower, seconded by Commissioner Smith; Ballot vote: 6-0; Absent: Commissioner Cruz. Mayra Buttacavoli to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

5:25:45 p.m.

R5E Eliminating Dance Halls & Entertainment Establishments In Certain Districts
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article I, "District Regulations," Division 5, CD-2 Commercial, Medium Intensity District, Section 142-302, "Main Permitted Uses"; Division 11, I-1 Light Industrial District, Section 142-485, "Prohibited Uses"; And Division 18, "PS Performance Standard District," Section 142-693 "Permitted Uses," By Eliminating Dance Halls And Entertainment Establishments Also Operating As Alcoholic Beverage Establishments And Restaurants With Full Kitchens And Serving Full Meals As Permitted Uses In Certain Areas Of The CD-2 Commercial, Medium Intensity District, The I-1 Light Industrial District, And The PS Performance Standard District; Providing For Repealer, Severability, Codification And An Effective Date. **5:15 p.m. Second Reading, Public Hearing.**

(Planning Department)
(First Reading, Public Hearing on April 14, 2004)

ACTION: Public Hearing held. **Ordinance Number 2004-3445 adopted.** Motion made by Vice-Mayor Gross; seconded by Commissioner Cruz; Ballot vote: 5-2; Opposed: Commissioners Garcia and Steinberg. Jorge Gomez to handle.

See other motions below.

Jorge Gonzalez, City Manager, introduced the item and stated that this item has nothing to do with hours of operations; it only closes a loophole that exists in the City Code, and requested Jorge Gomez, Planning Director, to explain the details of this ordinance.

Vice-Mayor Gross stated that this legislation will not affect any existing businesses operating legally. This legislation is directed at future businesses, because this closes the loophole that was allowing certain nightclubs to pretend to be restaurants. He explained that nightclubs are not a permitted use in Sunset Harbor or in South Pointe regardless of what is being done today.

Motion made by Commissioner Garcia to open and continue the meeting. No second offered.

The following individuals spoke:

1. Judith Cohen Blecker

2. Randie Hofer
3. Jaime Robinson
4. Maria Bonta De La Pezuela
5. Rafael Valasquez
6. William Lamdrelli, Jr.
7. Clark Reynolds
8. Harry Baxter
9. Judith Levick
10. Jack Hammer
11. Michael Capponi
12. Franck Dossa
13. Darr Keiger
14. James Ridinger
15. Doug Bedell
16. Gregory Alvarez
17. Frank Kruszewski
18. Stephen Hertz
19. Marilyn Baker
20. Joe Celestin, Mayor of North Miami.
21. John Brant
22. Clotilde Luce
23. Adam Balnickl
24. Sheila Hellman
25. Beatrice Kreitc
26. Nathan Lieberman
27. David Kelsey
28. Frank Blecker
29. Bea Kalstein
30. Judith Berson-Levinson
31. Karen Olin
32. Marco Lerra
33. Loren Ridinger
34. Richard Harris
35. Peter Vita
36. Toufic Mazzawi
37. Albert M. DeLeon
38. Ed Straub
39. Cherle Hinson
40. Morris Sunshine
41. Phillip Cousins
42. Steve Polisar
43. Ruth Remington
44. Ray Hefferon
45. Linda Arama
46. Joseph Mahonney
47. David Wallack
48. Tracey Gordon
49. Rick Delgado
50. Santiago Echemendia
51. Mallory Kauderer
52. Josh Fisher
53. Juan Covian
54. Raphael Rivera
55. Frank Del Vecchio

Vice-Mayor Gross stated that there are two communities, the residents and the nightclubs. To the nightclub community, **motion made by Vice-Mayor Gross to withdraw the request to the Planning Board of rolling back the hours of operations from 5:00 a.m. to 2:00 a.m. Number two, the ordinance before the City Commission should be passed.** The residents should know that in these two districts there will not be any more proliferation of nightclubs. He also stated that the City needs to accept responsibility for not providing the services that need to be provided. The City needs to do better in providing cleanliness, police and safety. He added that also needed is an ordinance that addresses the rules under which the clubs are expected to operate as good citizens and if they are not good citizens there are ramifications. He explained that part of the failure is that the City has had no way of saying to the clubs we want you to be good citizens, we want you to be successful, but the clubs need to accept the responsibility or face the consequences.

Commissioner Cruz seconded the motion.

Vice-Mayor Gross also stated that the City does need to look at what neighborhoods nightlife should be encouraged. Don't open new nightclubs in South Pointe.

Commissioner Cruz stated that the clubs have to do their fair share by maintaining their outside areas and controlling their crowds. He stated that the taxi cabs are a problem.

Commissioner Steinberg asked if the seven restaurants in South Beach and in the two in Sunset Harbor area identified as having dance licenses are grandfathered.

Jorge Gonzalez, City Manager, stated that this ordinance will grandfather any legally licensed establishments and those are the seven listed and requested to have the names read into the record.

Jorge Gomez, Planning Director, listed the names of restaurants with a current entertainment license south of 5th Street: Penrods, Opium, Pure Lounge, Monty's, Taverna Opa, Harrison's, L'Entrecote De Paris, and Joia. In Sunset Harbour are Jade and the Purdy Lounge.

Commissioner Steinberg stated that the City has failed to have ordinances that can be properly enforced, has failed to enforce the noise ordinance, has failed to provide the sanitation and police services necessary and should not punish the residents or the businesses but instead should find the resources to make sure that the industry can co-exists with the residents. He stated that there are legitimate restaurants which should be able to have entertainment or dancing. He suggested looking at the State statute that deals with the type of liquor license. He explained the States SRX liquor license criteria. He stated that he would not support this ordinance unless it is tailored in a way to allow legitimate restaurants to exist. He asked Gary Held, First Assistant City Attorney, to explain the alternative ordinance that ties it to the State liquor licenses.

Gary Held, First Assistant City Attorney, stated that the intent of the ordinance as codified was to exempt restaurants considered bona-fide restaurants. They are defined as having a full kitchen and serving full meals. He explained that the definition of a restaurant for state alcohol licenses has the following five criteria. In Miami-Dade County:

1. Minimum of 4,000 Sq. Ft.
2. Minimum of 250 [250 changed to 200 after the meeting]. The 250 seat minimum was increased for Miami-Dade County.
3. 51% of the total gross revenues must come from the retail sale of food and not alcoholic beverages.
4. A full course meal must be available at all times when the restaurant is serving alcoholic beverages. The definition of a full course meal is a salad or vegetable, entrée, beverage and bread.
5. The establishment is a bona-fide restaurant primarily engaged in food and non-alcoholic beverage sales and services. He explained that the alternate ordinance substitutes the State SRX alcohol

beverage license for the phase "full kitchen serving full meal" to establish that it is a bona-fide restaurant.

Motion made by Commissioner Steinberg to adopt the alternate ordinance using the State SRX alcohol beverage license; no second offered.

Commissioner Smith stated that he is concerned about introducing a totally new concept to an ordinance which has already been debated.

Steve Polisar, Chairman of the Nightlife Task Force, stated that it is impossible to qualify for the SRX license in Miami-Dade County unless you have 4,000 sq. ft., under roof, and 250 seats on the floor. Hardly any places would qualify for the SRX license. Joes Stone Crab is one of the few places that would qualify.

Gary Held, First Assistant City Attorney, stated that in South Pointe the following have SRX licenses, Monty's, Smith and Wollensky, Big Pink, and China Grill.

Commissioner Steinberg stated that the rational is that this legislation is closing a loophole. We are not closing a loophole, we are changing the law. The law was to allow legitimate restaurants to have the ability to have entertainment and dancing. The Commission should be looking for a way to prevent the abuse but not prevent legitimate business.

Commissioner Smith stated that there needs to be a definition which deals with what is an entertainment establishment and what is allowed and not allowed. **Jorge Gomez and Legal Department to handle.**

Commissioner Garcia stated that he made a motion to postpone the passing of this ordinance until it was properly crafted. He stated that the hours should not be rolled back; businesses which have played by the rules, should not change the rules, and stated that the City is to blame for the lack of services. He has been asking for the creation of districts like the ones before.

A five minutes recess was called by Mayor Dermer.

8:35:23 a.m.

Mayor Dermer requested Vice-Mayor Gross to repeat his motion

Motion made by Vice-Mayor Gross to pass this ordinance with the following amendments:

- 1) Forever renounce to roll back the hours of operations from 5:00 a.m. to 2:00 a.m. and to direct the Planning Board not to address this issue,**
- 2) Continue public dialogue on the ordinance that was passed on first reading, specifying the circumstances under which a club that is not being a good citizen can have the licenses either suspended or revoked after repeated violations. He explained that this is a serious situation and consensus needs to be reached before having the second hearing of the ordinance in July.**
- 3. He also instructed the City to do a better job of providing the services and enforcing the rules through Code Compliance; (subsequently removed), but acknowledge that this is a problem.**
- 4. To direct the Planning Board to look at where the City would like to encourage nightlife investments in the different entertainment sections of the City and to look at the entertainment piece holistically. The motion was seconded by Commissioner Cruz.**

Commissioner Garcia stated that his intention has been the creation of a cabaret district. Do not roll back the hours. South Pointe is different than Sunset Harbour which is an industrial area. The two areas South Pointe and Sunset Harbour, need to be separated and not treated the same way. He stated that he agrees with about 75% of the issues. He would like the three clubs that have submitted plans to be grandfathered in.

Commissioner Bower stated that she has a problem with passing this ordinance with these amendments, specifically No. 3, which if the City Manager may have to take the Police from Middle Beach or North Beach and move them to South Beach will create problems. The pieces which have budgetary implications should be removed.

Vice-Mayor Gross agreed with Commissioner Bower and stated that he did not mean item number 3 to be a mandate to the City Manager. He agreed to remove the item number from the motion.

Commissioner Garcia again requested the creation of a district.

Motion made by Commissioner Steinberg to add the language that is presented and the alternative to use the State SRX license language instead of the current language in the ordinance as far as full kitchen. No second offered.

Commissioner Garcia offered an amendment to include the study of the creation of a district. Amendment not accepted.

Jorge Gonzalez, City Manager, stated that the district is a business improvement district.

Vice-Mayor Gross suggested as an alternative to have the Administration meet with the clubs to figure out how to be better neighbors and to work with the residents together to address some of these issues of the collateral impact on the neighborhood. The cleanliness, the noise, and drinking beer out of cups need to be resolved. He also clarified the grandfather issues by stating that a business with a legal non-conforming use license, would be grandfathered in, but any business that received its license through the subterfuge of pretending to be a restaurant but is really a club should not be grandfathered.

Murray Dubbin, City Attorney, stated that this is all factually driven as to what was and what is a legal operation. The City Commission cannot make judgment that will cover all the situations. The City Commission can declare the intent which is contained in the ordinance proposal that those that were operating legally will continue operating as legal non-conforming use.

Jorge Gonzalez, City Manager, stated that when the Administration goes out to the businesses and the neighbors and discuss the proposed amendment which was passed on first reading (MXE District), that at the same time discuss various strategies from a business improvement district to a self imposed association. The question becomes, what is the best way to solve the collateral damage.

Commissioner Garcia asked if he could request that a Commission liaison be appointed to the negotiations and he volunteered to be the liaison.

Jorge Gonzalez, City Manager, stated that there are not negotiations, there is conversation and it is a public meeting and anyone can attend.

Murray Dubbin, City Attorney, stated that the ordinance should be addressed first because, if passed, will become a law and then, address any amendments.

Motion made by Vice-Mayor Gross to approve the ordinance; seconded by Commissioner Cruz, Ballot vote: 5-2; Opposed: Commissioners Garcia and Steinberg. R. Parcher to transmit to Municipal Code Corp.

Motion made by Vice-Mayor Gross to withdraw the referral to the Planning Board dealing with rolling the hours of operation from 5:00 a.m. back to 2:00 a.m.; seconded by Commissioner Steinberg, Voice vote; 7-0. Jorge Gomez to handle.

Motion made by Commissioner Garcia to refer to the Planning Board for discussion the creation of a cabaret district; seconded by Commissioner Cruz; Voice-vote; 7-0. Jorge Gomez to handle.

Vice-Mayor Gross stated that the last piece is the good citizen part by the clubs.

Mayor Dermer commended the public, the Administration, and the Legal department for their participation in this ordinance. He also commended Roman Jones for his donation to the baseball team.

Vice-Mayor Gross continued by stating that he wants part of this whole discussion to be an acknowledgement that there are collateral damages at night after the clubs close and that there will be a dialogue between the residents and the industry to try to resolve the issues.

Mayor Dermer stated that Roman Jones has voluntarily agreed to stop the flyers.

Roman Jones stated that he would sponsor and endorse, if other businesses went along with him, an end to flyering. The biggest problem is the competition coming from out of town. He also stated that he will meet with the residents to find a solution.

Steve Polisar, Chairman of the Nightlife Task Force, will invite the residents, and those that represent them, to the meetings and will be happy to take the time to dialogue.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald
2. Land Use Survey: Two color coded maps, 1) South Pointe and 2) Industrial District, along with a list of restaurants and bars in South Pointe Area.
3. Letter to City Clerk from David Kelsey, dated April 20, 2004 requesting a tape of the April 14, 2004 Commission Meeting item R5D.
4. Letter to City Clerk from David Kelsey, dated April 20, 2004 requesting a copy of resolution made as a companion item to April 14, 2004 Commission Meeting item R5D referring certain items related to the ordinance to the Planning Board
5. Letter to City Clerk from David Kelsey, dated April 20, 2004 requesting written confirmation that no 2nd reading of the ordinance will be scheduled until a Economic Impact Study is completed.
6. Correspondence from Mr. David Wallack, (Article in the "New Times" newspaper).
7. E-Mail from to City Clerk from Frank Del Vecchio dated May 3, 2004, reference: Objection
8. E-Mail from to List Admin from Frank Del Vecchio dated May 3, 2004, reference: Objection
9. In blue folder: 48 signed petitions, survey and some with a copy for Florida Voter Registration Application Form opposing the prohibition of restaurants with entertainment.
10. Signed petitions (with rubber band), survey and some with a copy for Florida Voter Registration Application Form opposing the prohibition of restaurants with entertainment.

See Replacement Ordinance distributed at the Commission Meeting**10:52:55 a.m.**

- R5F An Ordinance Amending The City's Art In Public Places Legislation, As Codified In Chapter 82, Article VII, Divisions 1 Through 4, Sections 82-501 Through 82-612, Of The Code Of The City Miami Beach, Florida; Providing For Codification; Repealer; Severability; And An Effective Date. **First Reading.**
(Tourism & Cultural Development)

ACTION: Heard in conjunction with item R7D. **Ordinance approved on First Reading as amended by the replacement ordinance.** Motion made by Vice-Mayor Gross; seconded by Commissioner Bower; Ballot vote: 5-0; Absent: Commissioners Cruz and Garcia. Second Reading Public Hearing scheduled for May 26, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Max Sklar to handle.

Handout or Reference Materials

1. Replacement ordinance

10:43:58 a.m.

- R5G An Ordinance Amending Miami Beach City Code Section 2-487 Entitled "Prohibited Campaign Contributions By Vendors," Subsection A(3) Thereof By Defining The Term "Disqualified"; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**
(Requested by Commissioner Jose Smith)

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Smith; seconded by Commissioner Bower; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public Hearing scheduled for May 26, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

NEW ITEM**10:16:38 a.m.**

- R6A Verbal Report Neighborhood/Community Affairs Committee April 28, 2004.

ACTION: Oral report given by Commissioner Bower. Report accepted by acclamation of the City Commission as amended objection.

Commissioner Bower reported that the following items were deferred: item #1 Board and Committees, item #2 Channel 20, and Item #4 discussion regarding ordinance on debarment and lobbying.

There was a lengthy discussion on the criteria to be added to the existing Human Rights ordinance 1) to expand the current domestic partnership registration to include all of Miami Beach residents, and 2) have the City Clerk's Office carry out the responsibility of issuing to those who qualify a certificate of acknowledging domestic partner. The Committee approved this action and will forward it to the City Commission for discussion.

Commissioner Garcia stated that it was his understanding that the registration will be open to all residents and visitors of Miami Beach.

Commissioner Bower agreed. She stated that Item B was to include the transgender community in the City's antidiscrimination language which is not currently defined in the City's Charter. The Committee approved this action and will forward it to the City Commission for discussion. **Legal Department to handle.**

The Committee accepted the recommendation to amend the Human Rights ordinance by adding the prohibition against discrimination on the basis of gender. There was definition added so this could not be misconstrued. **Legal Department to handle.**

Item # 3. It was requested that all city vendors and contractors honor the Human Rights ordinance and to incorporate this legislation to all who reside or do business in the City of Miami Beach. Specifically, if the vendor or contractors provide spousal insurance benefits, it should also be provided to registered domestic partnerships. Commissioner Garcia stated he was not sure if it was for contractor over \$25,000. This was question was never clarified.

Item #5: Discussion regarding the Art in Public Places Funding, the Master Plan, and the Guidelines. The issue is being discussed in today's agenda.

The discussion regarding potential enhancement to the Pine Tree Bark Park. The Administration went to the community and the community did not want the Bark Park. This item was withdrawn.

The item regarding the bicycle taxi business proposed by Easy Rider was referred to the Transportation and Parking Committee. The item should be brought back to the Committee within a month. **Saul Frances to handle.**

There was a discussion regarding the transfer of the Beach Patrol from the Parks and Recreation Department to the Fire Department. There was some discussion by Commissioner Garcia relative to where, organizationally, the Beach Patrol should be located.

Commissioner Garcia commended Commissioner Bower for moving the meeting along. He also stated that the City needs to make better use of Channel 20. He stated that the City has a resource that the City can provide public service announcements (PSA) to the community. He stated that if the City can get PSA's they should be shown.

Commissioner Steinberg stated that with regards to the aids PSA, that the Administration is going to produce the PSA.

Jorge Gonzalez, City Manager, stated that the guidance the Administration has received is to air City produced material only or go back to the archived material. He explained that from time to time there are requests from non-profit organizations asking to air material, but the issue is once you open the door where do you draw the line.

Vice-Mayor Gross stated that it has been decided that in the event of a health emergency and the City produced a piece it could be aired.

Commissioner Bower stated that unless the material can be controlled and it is not political, Channel 20 should stay the way it is. The City has a lot of informational material that City departments could prepare to educate the residents.

Mayor Dermer asked if another governmental entity produces a piece should it be aired.

Jorge Gonzalez, City Manager, stated that he would advice the Commission to accept it if it was produced by another governmental agency.

Commissioner Garcia stated that the City should start with health, educational, fire prevention, and police protection programming.

Mayor Dermer stated that the objective criteria should consider government produced, health, and safety.

Commissioner Garcia requested to add a slide on Channel 20 with the Mayor and Commissioner's contact information such as names, telephone numbers, and an email address. **R. Parcher to handle.**

Commissioner Bower stated that the aids prevention video is being worked on.

Mayor Dermer stated that the criteria should be items related to health and safety and that it be screened before airing.

Commissioner Bower stated that the video piece can not mention an organization with the sponsorship of the City, and will the City Manager be the one who decides which videos will be aired.

R7 - Resolutions

10:14:22 a.m.

R7A A Resolution Authorizing The Mayor And City Clerk To Execute An Interlocal Agreement By And Among The City Of Miami Beach, The Miami Beach Redevelopment Agency, And Miami-Dade County, Florida, For The Purpose Of Establishing The Use Of 1.5% Of The Tax Increment Revenues Against Real Property Located Within The South Pointe Redevelopment Area And The City Center/Historic Convention Village Redevelopment And Revitalization Area To Be Remitted, Respectively, To The City And County At Fiscal Year End. **Joint City Commission and Redevelopment Agency.**
(Economic Development)

ACTION: Item heard in conjunction with Item RDA-3A. Resolution No. 2004-25560 adopted. Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 5-0; Absent: Commissioners Cruz and Smith. Christina Cuervo to handle.

9:04:08 p.m.

R7B A Resolution Approving On First Reading/Public Hearing, In Accordance With The Requirements Of Sections 163.3220 - 163.3243, Florida Statutes, Also Referred To As The Florida Local Government Development Agreement Act, A Proposed Development Agreement Between The City Of Miami Beach And AR&J SOBE, LLC (A/K/A Potamkin/Berkowitz) For The Development Of The Project, Presently Referred To As "5th And Alton", Containing Approximately 179,000 Square Feet Of Retail Area And A Supermarket And An Approximately 943 Space Parking Garage Facility, Including An Intermodal/Transportation Component, An Integrated Parking Garage, Vertical Transportation, Ramps, Ventilation, Etc., And Surrounding Streetscape And Public Infrastructure To Serve The Project, Bounded By Lenox Avenue On The East, Alton Road On The West, 6th Street On The North And 5th Street On The South, In Miami Beach; Further, Setting The Second Public Hearing For The Development Agreement; Further Setting A Public Hearing Pursuant To The City's Guidelines For Vacation Of Public Right-Of-Ways And Chapter 82, Article II, Sections 82-37 Through 82-38, Of The City Code, To Hear Public Comment Concerning A Vacation Of The Alley Adjacent To The Property Generally Located Between Alton Road And Lenox Avenue, And Containing Approximately 7800 Square Feet Of Land. **2:00 p.m. First Public Hearing.**

(City Manager's Office)
(Continued from April 14, 2004)

ACTION: Public Hearing opened and continued to May 26, 2004 at 2:00 p.m. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Gross; Voice vote: 5-0; Absent: Commissioners Bower and Garcia. Lilia Cardillo to place on the Commission Agenda. Christina Cuervo to handle.

5:11:05 p.m.

R7C A Resolution Approving The Creation Of A Temporary (Not To Exceed Six Months) Restricted Residential Parking Permit Zone (Zone 14/Belle Isle) On The North Side Of The Venetian Causeway, Between Island Avenue And Century Lane; And Temporarily Establish Nine (9) On-Street Parking Spaces To Serve As Residential Parking For The Vistas Condominiums, Located At One Century Lane, As A Result Of Construction In Said Condominium's Parking Garage And Pool Deck Which Will Render The Garage Inoperable And Inaccessible To Residents. **5:01 p.m. Public Hearing.**

(Parking Department)

ACTION: Public Hearing held. **Resolution No. 2004-25561 adopted as amended with four conditions.** Motion made by Commissioner Garcia to approve using both sides of the street; seconded by Commissioner Cruz; Voice vote: 6-0; Absent: Mayor Dermer. Saul Frances to handle.

Bob de la Fuente, on behalf of the Vistas, thanked the City and the Commission for their help.
Arlene De La Torre spoke.
Santiago Alvaredo spoke.
Herb Frank spoke.

Saul Frances, Parking Director, introduced the item.

Commissioner Smith asked that the following conditions be added:

Condition 1. If there is a safety issue that the Vistas Condominiums agree to hold the City harmless against any claims which might arise from anyone getting hit by a car?

Condition 2. That very strict limits be placed on how long this will be in effect and if it goes beyond 6-months he will vote against it.

Bob de la Fuente, on behalf of the Vistas, stated that he will work out any indemnification language with Risk Management as part of the conditions for approval and agree to the time limits with the caveat that depending on the construction schedule, we may be back asking for more time. He stated that at this point he anticipates that construction will be concluded within 6-months. If it exceeds 6-months he will come back to the Commission for an extension.

Condition 3. Jorge Gonzalez, City Manager, requested to add a third condition which is relative to the CIP project which is forthcoming that when that project is ready to mobilize and start to occupy that section of the street that this agreement not impede the Administration from proceeding.

Condition 4. Vice-Mayor Gross added a fourth condition which if there are any problems the City retains the right to revoke. The Administration can initiate the revocation.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

10:52:55 a.m.

R7D A Resolution Adopting The Art In Public Places Five Year Master Plan And Guidelines.

ACTION: Heard in conjunction with item R5F. **Resolution No. 2004-25562 adopted.** Motion made by Vice-Mayor Gross to approve with the clarification that the Administration set a schedule for the maintenance of current projects and may be take two years worth of maintenance and the balance of the \$108,000 going to new projects and the reserve to go forward; seconded by Commissioner Bower; Voice vote: 5-0; Absent: Commissioners Cruz and Garcia. Max Sklar to handle.

Max Sklar, Assistant Director Tourism and Cultural Development, introduced the item.

Vice-Mayor Gross stated that in the last five years the City has a pretty dismal record of honoring the intent of the ordinance. One and a half percent of all City project monies would be used for Art in Public Places (AiPP). It hasn't worked out that way such as the park projects, the pool projects, the trail way projects and many projects which were thought to qualify for AiPP money were deemed by the Administration to be unqualified. Of the \$220,000 appropriated only \$90,000 has been used for new projects. \$120,000 was spent on salaries and a little over \$10,000 on maintenance. The new ordinance will codify what the consultant has recommended which is 25% of the money be used for administration, insurance, and maintenance. The amount on page no. 247, which is scheduled to be left for

maintenance, is in excess of what is necessary for the two projects that have been built so far. He stated that it was agreed that this number will change because at this point there is not \$103,000 worth of maintenance. It will be better to use that money for new projects. He explained that the City needs to calculate how much is needed to maintain the existing project and allocate the rest to the projects.

Commission Steinberg recommended that instead of changing the funding this year to allow that for future years if there is an excess of maintenance funds, to allow any excess funds to go to art work.

Vice-Mayor Gross stated that the two major recommendations in the Master Plan are 1) to have a fully dedicated person to Art in Public Places, and 2) to have an annual appropriation out of the City's budget for art in public places. He stated that the two major recommendations made by the consultants are not being honored, since this is a budgetary issue the Administration may want to review this at budget time.

He stated that public arts is a signature element of great cities and when you travel around Europe and see the public art that has been there for hundreds of years you realize that the City is the shepherd of that history for Miami Beach. Another recommendation that Arts in Public Places Committee needs to do is to come up with pre-approved key sites, encourage public donations either permanent or temporary from some of the art collectors in Miami Beach, a general call to artists in the area to have their art shown in public as long as there is a screening process to make sure to achieve quality. He stated that the gateway to Miami Beach on the MacArthur Causeway would be a great place to place art as a way of saying welcome to our City.

Jorge Gonzalez, City Manager, stated that the City has a staff person but not fully dedicated to Arts in Public Places. Regarding the pre-approved key sites, the Administration has asked our architects and engineers as they go through the neighborhood community design workshops processes to identify sites and work with the Arts in Public Places Committee.

Commissioner Smith commended Vice-Mayor Gross for taking an active leadership role on this issue. He explained that Vice-Mayor Gross insisted that when the City does a project, funds are allocated for public art. He stated that his one concern is with the criteria for selecting the locating for the art. He wanted to make it clear that the whole City should be considered, not just specific areas where construction takes place.

Jorge Gonzalez, City Manager, stated that the City Commission makes the final decision of selecting the artwork and selecting the placement, and there is no requirement that the art piece be placed corresponding to where the funds came from for that particular construction project, the entire City is considered and it is placed where it is most appropriate.

Commissioner Garcia commended Vice-Mayor Gross for his efforts on this issue. He reminded how difficult it was to get the pictures up at Walgreens and the South Florida Arts Center. He stated that the City needs to find a way to expedite the approval process.

Vice-Mayor Gross stated that there should always be public oversight to make sure it is quality art and not objectionable and appropriate for the location and having Dennis Leyva in charge of Art in Public Places is a good move and he will bring a lot of energy to it.

Motion made by Vice-Mayor Gross to approve with the clarification that the Administration set a schedule for the maintenance of current projects and maybe take two years worth of maintenance and the balance of the \$108,000 going to new projects and the reserve to go forward; seconded by Commissioner Bower; Voice vote: 5-0; Absent: Commissioners Cruz and Garcia.

Jorge Gonzalez, City Manager, stated that the Administration will do the maintenance calculations and report back via an LTC. **Max Sklar to handle.**

9:40:55 p.m.

R7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Perpetual Easement Interest With The Florida Department Of Transportation (FDOT) For Two Separate Strips Of Land Along The East Side Of Brittany Bay Park, Containing 1578 Square Feet, A Legal Description Of Which Being Attached Hereto And Made Part Of This Resolution. Said Easement Will Widen The Indian Creek Drive Crossection To Allow For The Construction Of A Triple-Left Intersection, As Part Of FDOT's At-Grade Project At 63rd Street And Indian Creek Drive. FDOT Agrees To Restore To Substantially The Same Condition Which Existed Immediately Prior To Such Work, At Its Sole Cost And Responsibility, Any And All Affected City Infrastructure Within The Easement Area, Including But Not Limited To Utility Lines, Sidewalk And Landscaping; And Further That The Easement Will Become Null And Void If The Project Is Not Under Construction Before The Year 2007, And The Rights Conveyed By The City Revert Back To The City.

(Public Works)
(Deferred from April 14, 2004)

ACTION: Heard in conjunction with item R9C. **Item deferred.** Motion made by Commissioner Cruz to defer the item; seconded by Commissioner Bower; Voice vote: 4-3; Opposed: Vice-Mayor Gross and Commissioners Garcia and Steinberg. Lilia Cardillo to place on May 26 Agenda. Fred Beckmann to handle.

See discussion with item R9C.

Handout or Reference Materials:

1. Table of action by dates.
2. Accident Analysis for Indian Creek at 63rd Street Traffic Study Report.

10:46:54 a.m.

R7F A Resolution Authorizing A Payment To The Miami-Dade Library System Of \$2,000,000 In Accordance With Section I Of Amendment One To The Interlocal Cooperation Agreement Dated June 21, 1996 Between Miami-Dade County And The City Of Miami Beach; Appropriating Such Funds From The General Fund; Further Approving That Said \$2.0 Million Dollar Contribution Be Used To Fund The Cost Of Library Books For The New Regional Library To Be Located In Miami Beach.

(Finance Department)

ACTION: Resolution No. 2004-25563 adopted. Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 6-0; Absent: Commissioner Cruz. Patricia Walker to appropriate the funds and to handle.

Jorge Gonzalez, City Manager, introduced the item.

Commissioner Smith asked if the City has any discretion with the library system to tell them what they can spend the money on.

Jorge Gonzalez, City Manager, stated that he does not believe the City has that discretion. The library system will stock and operate the regional library according to the regional standards for the libraries.

4:50:27 p.m.

11:39:38 a.m.

SUPPLEMENTAL MATERIAL – (Replacement Material)

R7G A Resolution Approving The City Of Miami Beach Capital Project List And Priorities For Inclusion In The Miami-Dade County 2004 General Obligation Bond Program.

(City Manager's Office)

ACTION: Heard in conjunction with item "D." **Resolution No. 2004-25564 adopted. The Capital Project list amended.** Motion made by Commissioner Steinberg with Commissioner Smiths'

amendments, the Administration's amendments, and shifting the priority of the Town Center Park (Sound Space Facility/New World Symphony NWS) from a priority two to a priority three with the park changed from priority 3 to priority 1; seconded by Commissioner Bower; Voice vote 4-2; Opposed: Vice-Mayor Gross and Commissioner Garcia; Absent: Commissioner Cruz. Christina Cuervo to handle.

Motion made by Commissioner Bower to adopt Victor Diaz's recommendation; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz.

Jorge Gonzalez, City Manager, introduced the item.

Amendments:

1. North Shore Open Space Park, the surface lot renovations and the Altos del Mar should be a regional instead of local.
2. North Shore Band Shell and North Shore Park, either local or regional, should be added to the list.
3. Change priority of the North Shore Open Space Park Maintenance Facility from priority three to priority one (1).
4. Instead of putting groups on a list for consideration to send the message that the City of Miami Beach endorses the concept of letting all the groups who do not get included in the G.O. Bond to compete for money in the fund administered by the Cultural Arts Council. See Victor Diaz's recommendation.
5. Shifting the priority of the Town Center Park (Sound Space Facility/New World Symphony NWS) from a priority two to a priority three with the park changed from priority three (3) to priority one (1).

End of Amendments.

Mayor Dermer stated that whatever the City Commission does with the list of items, this in no way endorses the bonds, the City is only preparing in case the bonds are approved.

Jorge Gonzalez, City Manager, stated that the list does not guarantee that the project will be placed on the final list for voter approval.

Amendment:

Commissioner Smith stated that the North Shore Open Space Park, the surface lot renovations and the Altos del Mar should be a regional instead of local.

Amendment:

Jorge Gonzalez, City Manager, stated that the North Shore Band Shell and North Shore Park, either local or regional, should be added to the list.

Amendment:

Commissioner Smith requested to change priority of the North Shore Open Space Park Maintenance Facility from priority three to priority one (1).

Commissioner Steinberg stated that the Commission has not taken a position as to whether there will be a park on the parking lot; therefore, he did not understand why the Commission would be asking the County to fund, as a second priority, the Town Center Park (Sound Space Facility/New World Symphony NWS) item.

Vice-Mayor Gross stated that not only should it be on the list, but it should be a priority one (1) rather than a two (2).

Jorge Gonzalez, City Manager, stated that the list was due April 30; however, the County Manager extended the deadline to as soon as possible after the today's meeting.

Vice-Mayor Gross recommended waiting for Commissioners Cruz and Garcia.

4:50:16 p.m.

Victor Diaz, Planning Board Chairman, stated that he also serves on the County's Cultural Arts Council. At a meeting to prioritize cultural components of the G.O. Bond, they did not believe it was a good idea to create competitive groups. The recommendation given by Michael Spring, Executive Director Metro-Dade Cultural Affairs Council, and adopted by the Council is to create a fund within the G.O. Bond that the cultural arts groups can go to in order to compete for funding. The fund amount is \$100 million dollars. This Commission might want to consider instead of putting groups on a list for consideration to send the message that the City of Miami Beach endorses the concept of letting all the groups who do not get included in the G.O. Bond to compete for money in the fund administered by the Cultural Arts Council.

Motion made by Commissioner Steinberg to approve the item shifting the priority of the Town Center Park (Sound Space Facility/New World Symphony NWS) from a priority two (2) to a priority three (3). No second offered.

Commissioner Garcia stated that the priority should be a two (2).

4:54:39 p.m.

See NEW ITEM – Columba Bush.

Commissioner Steinberg renewed his motion with Commissioner Smiths' amendments, the Administrations amendments, and shifting the priority of the Town Center Park (Sound Space Facility/New World Symphony NWS) from a priority two (2) to a priority three (3); seconded by Commissioner Bower; Voice vote: 4-2; Opposed: Vice-Mayor Gross and Commissioner Garcia; Absent: Commissioner Cruz.

Motion made by Commissioner Bower to adopt Victor Diaz's recommendation; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz.

11:59:42 a.m.

ADDENDUM ITEM

C7I **Re-Designated R7H. See action R7H.**

R7H A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Authorizing The Mayor And City Clerk To Execute A Termination And Abandonment Of An Easement Agreement For Lot 3, Of Block 33, Miami Beach Improvement Company's Ocean Front Subdivision, In Favor Of Crown At Miami Beach, Ltd., Owners Of The Crown Hotel Property Located At 4041 Collins Avenue..
(City Manager's Office)

ACTION: Motion made by Commissioner Bower to deny; seconded by Commissioner Smith; Voice Vote: 5-1; Opposed: Commissioner Garcia; Absent: Commissioner Cruz.

Robert Middaugh, Assistant City Manager, introduced the item.

David Sacks, Esq., representing The Crown Hotel, spoke.

Discussion held.

Motion made by Commissioner Garcia to approve; no second offered.

Handout or Reference Materials:

1. Map showing the Bulkhead. and Erosion control lines.
2. Colored aerial photograph.
3. Letter to Raul Aguila, Assistant City Attorney from Betsy Hewitt Deputy General Counsel dated April 1, 2004 in reference to Vacation and Termination of Easement.

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.
(City Clerk's Office)

ACTION:

Arts in Public Places:

Maria Bonta De La Pezuela	Term expires	12/31/04	City Commission Appointment TL12/09
Heather Urban	Term expires	12/31/05	City Commission Appointment TL12/09

Beach Preservation Board:

Jordanna Rubin Ex-Officio City's Environmental Specialist

Committee for Quality Education in MB:

Leslie Rosenfeld, Representative ACM/ City Manager Designee.

Community Development Advisory Committee:

Grant Gussin	Term expires 12/31/05	Appointed by Commissioner Steinberg TL 12/11
Charles Burkett	Term expires 12/31/05	Appointed by Commissioner Cruz TL 12/11

Fine Arts Board:

George Neary	Term expires 12/31/05	Appointed by Mayor Dermer TL 12/07
Jason Wisenfeld	Term expires 12/31/04	Appointed by Mayor Dermer TL 12/11

Marine Authority:

Victor Nusbaum	Term expires 12/31/05	Appointed by Commissioner Garcia TL12/11
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Miami Beach Florida Sisters Cities:

Rony Curvelo	Term expires 12/31/05	Appointed by Mayor Dermer TL12/09
Appointment made via e-mail on January 7, 2004. It was not recorded in Folio.		
Michael McNamee	Term expires 12/31/05 (Fujisawa, Japan)	Appointed by Mayor Dermer TL12/11

Transportation and Parking Committee:

Tamra Sheffman	Term expires 12/31/05	Appointed by Commissioner Garcia TL 12/09
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Youth Center Advisory Board:

Luis Salom	Term expires 12/31/04	Appointed by Commissioner Garcia TL 12/11
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Handout or reference Material

1. Two letters with resume attached addressed to Robert Parcher, City Clerk, from Frank Del Vecchio, dated May 3, 2004, RE: Application for appointment to Planning Board.

11:31:28 a.m.

R9A1 Nominate Maria Bonta De La Pezuela To The Arts In Public Places Committee.
(Requested by Commissioner Richard L. Steinberg)

Commissioner Steinberg nominated Maria Bonta De La Penzuela and Heather Urban. Commissioner Bower nominated Maria Bonta De La Penzuela as well.

ACTION: Ballot vote # 1: Heather Urban (5 votes) 12/05
Maria Bonta De La Penzuela (3 votes)
Yolanda Sanchez (2 votes)

Absent: Commissioners Cruz and Garcia

Ballot vote # 2: Maria Bonta De La Penzuela (5 votes) 12/04
Yolanda Sanchez (2 votes)

Absent: Commissioners Cruz and Garcia

R. Parcher and Max Sklar to handle.

Handout or Reference Materials:

1. Two sets of ballots.

R9A2 Appointment Of Two (2) Citizens At-Large To The Board Of Adjustment.
(City Clerk's Office)

ACTION: See item R9A4. Not reached. Lilia Cardillo to place on May 26 Agenda.

11:18:19 a.m.

R9A3 Re-Appointment Of Commissioner Matti Herrera Bower To The Performing Arts Center Trust.
(Requested By Mayor David Dermer)

ACTION: Motion made by Vice-Mayor Gross to appoint Commissioner Matti Herrera Bower to the Performing Arts Center Trust; seconded by Commissioner Smith; Voice vote: 5-0; Absent: Commissioners Cruz and Garcia R. Parcher to notify the Trust.

Handout or Reference Material

1. Letter to Mayor David Dermer from Michael C. Hardy, President and CEO, Performing Arts Center of Greater Miami, dated February 12, 2004, RE: Reappointment of Matti Herrera Bower to the Performing Arts Center Trust – Her term expired January 31, 2004.

City Clerk's note: Ms. Valerie V. Robinson, Performing Arts Center Trust, stated that Commissioner Bower will serve a three (3) year term, and is allowed to serve two terms, which is a total of six (6) years, so that Commissioner Bower is now serving her second term. Term ends 1/31/2007.

ADDENDUM ITEM:

R9A4 Nominate Carl Linder to the Board of Adjustment. **See item R9A2.**
(Requested by Commissioner Luis R. Garcia, Jr.)

ACTION: Not reached. Lilia Cardillo to place on the May 26 Agenda.

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.).

ACTION: 3:22:43 p.m.

Gil Zriny Spoke on item R7B. He stated that there has been much discussion on streetscape in his neighborhood in reference to the sidewalks. He stated that the normal size for sidewalks is 5 ft. which is generous if there is not a lot of "street furniture" such as light post, mail boxes, etc. The new street size being proposed for South Beach is 6 ft. for the project called The Courts of South Beach. Section #3 of the same project has only a 5 ft. sidewalk. On the 404 Washington Avenue building the sidewalk has a street pole and the passage way measures 3.3 ft. The brand new building on 5th Street and Collins Avenue also has a 5 ft. sidewalk. On a new project on 5th Street and Alton Road, the City is asking for an 8 ft. sidewalk. If on a commercial street, the size of the sidewalk has a passage way of 3 ft. why is the City asking for an 8 ft. sidewalk on Jefferson and Meridian which are residential streets.

R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

ACTION: Not reached.

9:40:55 p.m.

R9C Discussion Regarding The Traffic Analysis Report On Indian Creek Drive At 63rd And 65th Street Intersections, Prepared By The HNTB Corporation.
(Public Works)
(Deferred from April 14, 2004)

ACTION: Heard in conjunction with item R7E. See action R7E.

Girish Kumar, HNTB consultant gave a PowerPoint Presentation.

Javier Rodriguez from the Florida Department of Transportation, FDOT, spoke.

Jerry Libbin spoke.

Ted Berman gave a PowerPoint presentation

Deborah Ruggiero spoke.

David Tracey spoke.

Frank Del Vecchio spoke.

Minnette Benson spoke.

Judith Benson-Levinson

Ted Berman requested that the City Commission listen to him with an open mind since his presentation addresses a lot of their questions and he will show factors that are not being considered. A PowerPoint presentation was shown.

9:13:35 p.m.

R9D A Public Hearing To Solicit Public Input Regarding The Notification Of Proposed Change ("NOPC"), Filed By Flagstone Island Garden, LLC On Behalf Of The Downtown Development Authority, For The Expansion Of The Downtown Development Of Regional Impact (DRI) District Boundaries To Include The Northwest Quadrant Of Watson Island. **5:05 p.m. Public Hearing.**
(City Manager's Office)

ACTION: Public hearing held. **Resolution No. 2004-25566 adopted.** Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Voice vote: 6-0; Absent Commissioner Garcia. Christina Cuervo to handle.

Christina Cuervo, Assistant City Manager: introduced and summarized the item.

Mayor Dermer: This is a very important matter. Frankly it has just as much or more impact than the matter we discussed tonight, because this is dealing with Watson Island traffic congestion over 5th Street. The Flagstone Hotel is really a concern of mine or those, two hotels I guess proposed and an FTAA for which there has been discussion.

Christina Cuervo, Assistant City Manager: the proposed development is listed in your [agenda] packet. The proposed development as described has 605 hotel rooms. That's what they are proposing in the proposed development program. I think we have outlined all of our concerns and they are listed in the memorandum which will be attached in the submittal. But I think Fred Beckmann has some additional comments, our transportation consultant has reviewed it and his comments are relevant.

Fred Beckmann, Public Works Director: Mr. Mayor and Commissioners, Fred Beckmann, Director of Public Works: We had a preliminary analysis by a traffic consultant that's looking at DRI, the key element is the extent of the traffic analysis, it wasn't done extensive enough. The only thing that was actually covered was MacArthur Causeway, 5th, and also Alton [Road] from 5th to 15th, the DRI agreement initially was for them to look at all the roads east, west, south and north from the impacted area so we believe, from the get go, that the analysis was not extensive enough. A couple of other things, the traffic counts taken by the consultant for the DRI was only 24 hour counts instead of the typical 72 hour counts,

especially on the Beach, having a 72 hour count is very important, bottom line, as the traffic analysis.

Mayor Dermer: a 72 hour count, yeah, I think is a good idea, especially with the clubs open at 5:00 a.m.

Fred Beckmann: Yes, Mr. Mayor. Bottom line as I looked at the different corridor, the different links that the DRI traffic consultants looked at it, they were undercounted significantly from a range of 15 to 44 %, so we will have to complete the study and that will be within the next few days and be ready to presentation to the State.

Mayor Dermer: okay, we wish to send up objections when do we have till, to finalize that?

Christina Cuervo, Assistant City Manager: May 14th is the date.

Commissioner Steinberg: before I move the item, I just want to say that the development thus far on Watson, even though it's been relatively minimal has already had significant impact on traffic and I know that the residents in Palm and Hibiscus, in particular, have been very concerned with the number of vehicles that need to make a U-turn there, and the back-up that was creating in the turn lane, which was in turn causing them to be in the right-of-way, which was in turn causing accidents, and FDOT since then, and the County had changed the lighting, the amount of green arrow time, to eliminate some of that, try to get rid of the queue and now they plan to extend the left turn lane, but that's just what's been done thus far, in Watson Island is a relatively small percentage of what is planned and those highlight the importance and the amount of impact that this is going to have on our City, one of our main corridors, probably the busiest entrance point for our City, in my guess, I don't know that actual count, but my guess is busier than I-95, it's probably the busiest entrance point in the City and to have that, in the past the City hasn't looked at this, and I want to commend the Administration because when the DRI's were done in the past, the City hasn't taken the time to really analyze it and decide what the impact's were and make our opinion heard and I think we should be remiss for not doing it in the past, but fortunately, we are in the position today, that we have the ability to do the analysis and provide the input to the State to make sure that the impacts are taken care of and to make sure that they are not allowed to develop that without control and without objection when it does severely impact the viability of our City, so that being said, I'll be happy to move the resolution.

Commissioner Bower: Second.

Mayor Dermer: Okay, the motion and second, let us hear, Frank wishes to speak.

Jorge Gonzalez, City Manager: While they come up, Mr. Commissioner, you are absolutely right, I appreciate the compliments, it's, a day like today, those are very welcome, but, the staff have certainly done an excellent job in analyzing the DRI proposal and it dovetails nicely with the conversation we had at our last meeting about when we talk about concurrencies, not just what's happening within the City, but what's happening around the City that has as much, if not sometimes more, of an impact to the viability of our City and so we take this seriously, because, you're right, it is an impact on our community, probably more so, than on the City of Miami in large respects because of where it is located.

Mayor Dermer: Okay, Frank you got some comments.

Frank Del Vecchio, resident: questioned if the record of this meeting or the minutes of this meeting in the testimony going to be included? He stated, that people could not be here because of the late hour. He further, stated that the traffic impacts on Watson Island development has been a persistent theme of neighborhood discussions in South Beach for several years. A group called Tuesday Morning Breakfast Club, which meets every Tuesday this is a major issue before the group. Members of the group have gone to the DRI hearings. He and David Kelsey, President of the South Beach Hotel and Restaurant Association, met with the City of Miami officials a year and half ago to review the transportation planning and adequacies for the development. He served as chair for the Citizens Advisory Committee on Bay Link Study, he read every draft environmental impact statement in the possession of Parsons Brinkerhoff

on possible ways to alleviate congestion on State Road 836 including MacArthur Causeway and those conclusions were that there will be a continuing significant congestion on MacArthur Causeway because of regional demands, irrespective of the amount of mitigation that could be taken on elsewhere on State Road 836. He stated that he didn't have an opportunity to read the Consultant report of the City of Miami Beach, but based on the work study he has done, he believes that any additional development on Watson Island is going to result in excessive traffic impacts. He stated that:

1. There should be an origin destination study in addition to simple traffic count data, and traffic count data over a 24 hour period is totally inadequate given the unique nature of traffic into Miami Beach.
2. Three (3) day traffic count should be done over typical periods, which include the 11 major event periods identified in the City's studies on special events. It should include weekend studies during different periods of the year.
3. Look at the collateral impacts on the Venetian Causeway at periods of high congestion.

David Kelsey, resident: stated that he is in total agreement with Frank's comment but that there are other issues that go unnoticed, such as,

1. The proposed Tunnel from Watson Island into the Harbor for Semi-trucks. When the trucks come out of Watson Island leaving the Port he sees a major problem integrating that into the existing congested traffic flow when talking about thousands of container trucks coming and going.
2. The concerned with the Children's Museum on one side of the causeway and the Parrot Jungle on the other, people taking their children to both attractions with no way to cross the MacArthur Causeway on the Island. It's a major problem and a growing problem with 125 thousand square feet of shops and restaurants, 500 or 600 hotel rooms, the Air-Sea Museum portion, the office buildings, the Mega Yacht Marina and all the supplying for that. If you look at the two lane situation you have and entering Watson Island from the beach, how do you get to the other side? People will be circulating around the perimeter and when they hit the two lanes of traffic how will they get across it? At some point you will have to go over or under it. Going over is difficult because there is not enough land for proper approaches, means you will go under, and then they will put in a tunnel in addition to going under for the circulation on the Island put a truck tunnel for the port. He stated that he does not see how this can fit in and is happy that the City in taking an active part. The Parrot Jungle estimates it will have one-million visitors a year. That's just the Parrot Jungle.

Judith Berson-Levinson, resident and a member of the Urban Environmental League: stated that this is public park land and they are taking it away from public access to the waterway. She stated that they have skirted around an issue where there is not supposed to be condo ownership and doing it as timeshare.

Minnette Benson, resident: stated she's somewhat familiar with the DRI and feels that the City Commission must be very firm in asking that it not ruin the designated "D" level of service and that must be honored. In addition, feels that the expansion of Watson Island will just wreck the City of Miami Beach. Any traffic study that must be done have to be done in peak winter season as well as in slow months like September.

She also agrees with Frank Del Vecchio's comment that the impact on Venetian Causeway will be enormous, that is a historically designated road, it is a two lane road and there are residences all up and down the single family dwellings of the islands.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald
2. E-mail from Christina Cuervo to Christina Cuervo dated May 11, 2003 Subject: Initial comments for Task

3:27:12 p.m.

R9E Presentation Of The Proposed Planning Initiatives For The 2004-2005 Term By Victor Diaz, Planning Board Chairperson.

(Requested by Commissioner Matti Herrera Bower)

ACTION: Presentation made.

Victor Diaz, Planning Board Chairman, spoke on the changes in procedures and the proposed work planned for this year by the Planning Board. He stated that as an advisory body to the City Commission, it is very important that the Planning Board informs them and maintains a close working relationship in a proactive manner to address the serious planning issues that confront the City of Miami Beach today and in the future. He explained that last year the Planning Board implemented a procedure of having a half hour discussion before the meeting so that board members could discuss issues and give guidance to the staff and address issues before they become problems. This year this portion of the agenda has been expanded from 30 minutes to 90 minutes.

These are the five most important Planning priorities for this year in no particular order:

1. Traffic and concurrency issues and development impact review legislation.
2. North Beach Traffic issues. Mobility issues in North Beach are having a detrimental impact on limiting or prohibiting the full potential of the North Beach section of Miami Beach from being realized.
3. Entertainment uses/entertainment industry and how to make it compatible with the residential neighborhoods.
4. Parking: Development of additional parking resources and the manner in which existing parking resources are utilized and distributed.
5. Single family residential demolition/design review.

Victor Diaz, Planning Board Chairman, stated that the Board prioritized the above list in the order in which the issues will be addressed by the Planning Board; the first issue is the single family residential issue and the reason is that the Board has already started this process because of a referral from the City Commission. He stated that there have been workshops on this issue. The second issue is the traffic concurrency and development impact. The reason is that this issue has a detrimental impact Citywide and the other three issues are grouped very closely together. He requested guidance from the City Commission as to how these three other issues can be prioritized.

Mayor Dermer stated that this interaction between the Planning Board and the City Commission is a healthy process.

Vice-Mayor Gross stated that this is a good list. He would like to see the issue of historic preservation and expanding the MIMO district to be discussed and addressed to achieve consensus.

Commissioner Garcia stated that the number one priority is to look at the creation of a cabaret district. He stated that the second priority is the issue of the traffic in North Beach and it should be looked at and until this traffic issue is corrected, extending the historic district in North Beach will have a detrimental effect on the area.

Commissioner Smith stated he finds the concept of conservation districts, discussed at the Planning Board meeting, informative and intriguing. He stated that this is a creative and pragmatic way of dealing with the problems existing in the different neighborhoods and if consensus is built, it would be supported.

He explained that this a useful tool to be used to make sure that neighborhood interests are protected. When it comes to issues such as the Design Review Board monitoring applications in single family districts and imposing additional regulations beyond the lot coverage, the Board needs to be very careful because there seems to be a reluctance or lack of appreciation for the City imposing any more restrictions. The philosophy is that "my home is my castle" and the City should not be imposing unnecessary restrictions. He explained that if the Board goes slowly and creates the idea that this is to benefit the neighborhoods and to preserve the quality of life, there will be support from the neighbors.

Commissioner Bower agreed with preserving the single family homes, also the traffic issue needs to be addressed with the thought that at some point Bay Link will be coming to Miami Beach and see how this will fit into the concurrency plan. Her concern in North Beach is not only the traffic but also the parking and if this area is designated historic the City needs to make sure the same mistakes of South Beach are not repeated. She suggested a study be made of the lots available that could be used for parking.

Victor Diaz, Planning Board Chairman, stated that the Neighborhood Conservation District is one of the most innovating and important land use tools the City has considered in a long time. He urged the City Commission to adopt it because it will give them great flexibility.

Commissioner Steinberg stated that to control the big mansions from coming up in the neighborhood the City should control what goes up instead of what comes down. On the issue of traffic and concurrency, he stated that the traffic in South Beach should be looked at because the concurrency credits for the Electrowave are not in line with the ridership and the streets become more congested. He explained that there should not be a system in place that allows development to exceed the capacity of the roadways by 50% and assume that the Electrowave is going to pick that up. He stated that the Planning Board, when it comes to traffic and concurrency issues, should work with the Transportation and Parking Committee and the Concurrency Committee and perhaps have joint meetings with these committees on these types of issues. He added that the entertainment district should be done in a balanced way.

Mayor Dermer recognized Mayor Joe Celestin from the City of North Miami.

Mayor Celestin from the City of North Miami spoke.

Mayor Dermer stated that the list of priority is excellent and he agrees with Commissioner Steinberg. He stated that there needs to be consistency in the process.

11:18:40 a.m.

R9F Discussion Regarding Waiver Of Conflict Of Interest By Akerman Senterfitt, P.A.
(City Attorney's Office)

ACTION: Discussion held. Motion made by Vice-Mayor Gross to deny waiver of Conflict of Interest; seconded by Commissioner Steinberg; Voice vote: 5-0; Absent: Commissioners Cruz and Garcia. Legal Department to handle.

Murray Dubbin, City Attorney, recommended the waiver.

Vice-Mayor Gross stated that he does not see granting a waiver to an attorney who is suing the City and he does not understand why they are taking this case on.

Commissioner Smith stated that Akerman Senterfitt did not take on the case, the firms merged. He stated that ethically there is no conflict of interest.

James Crosland, Esq., spoke.

R9G Discussion And Update Regarding The Commission Retreat On Saturday, May 8, 2004 From 12:00 p.m. - 6:00 p.m. At The South Beach Marriott Located At 161 Ocean Drive, Miami Beach, Florida In The Ocean Boardroom.

(City Manager's Office)

ACTION: Item not reached.

9:36:15 p.m.

R9H Discussion Regarding A Resolution Urging Governor Jeb Bush To Veto Those Line Items Of The State Budget Which Would Eliminate \$12.5 Million From The Miami-Dade County School District Budget.
(Requested by Commissioner Matti Herrera Bower)

ACTION: Discussion held. **Resolution No. 2004-25565 adopted as amended.** Because of the amount of amendments, the Legal Department will provide a copy to the City Clerk. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. Kevin Crowder to handle.

Murray Dubbin, City Attorney, stated that the idea is to veto the entire appropriation and call the legislation back into session to restore the \$12.5 Million. He read language to amend this resolution.

R9I Discussion Regarding Negotiating A Contract For Public Relations Services.
(Requested by Vice-Mayor Saul Gross)

ACTION: Item not reached. Lilia Cardillo to place on the May 26 Agenda.

Reports and Informational Items

- A City Attorney's Status Report.
(City Attorney's Office)

ACTION: Written report submitted.

- B Status Report On The Rehabilitation Project Of The Existing Building And The Addition To Fire Station No. 2.
(Capital Improvement Projects)

ACTION: Written report submitted.

- C Status Report On The Rehabilitation Project Of Fire Station No. 4.
(Capital Improvement Projects)

ACTION: Written report submitted.

SUPPLEMENTAL MATERIAL – (PowerPoint Presentation)

- D Presentation Regarding Funding Status For Projects Managed By The Capital Improvement Projects Office.
(Capital Improvement Projects)

ACTION: Not reached. Lilia Cardillo to place on the Commission Agenda.

End of Regular Agenda

**Miami Beach Redevelopment Agency
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
May 5, 2004**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz Absent
Member of the Board Luis R. Garcia, Jr.
Member of the Board Saul Gross
Member of the Board Jose Smith
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Christina M. Cuervo
Assistant Director Mayra Diaz Buttacavoli
General Counsel Murray H. Dubbin
Secretary Robert E. Parcher

AGENDA

1. ROLL CALL

2. OLD BUSINESS

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of March 2004.

ACTION: Written report submitted.

3. NEW BUSINESS

- A A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Authorizing The Chairman And Secretary To Execute An Interlocal Agreement By And Among The City Of Miami Beach, The Miami Beach Redevelopment Agency, And Miami-Dade County, Florida, For The Purpose Of Establishing The Use Of 1.5% Of The Tax Increment Revenues Against Real Property Located Within The South Pointe Redevelopment Area And The City Center/Historic Convention Village Redevelopment And Revitalization Area To Be Remitted, Respectively, To The City And County At Fiscal Year End. **Joint City Commission and Redevelopment Agency.**

ACTION: Item heard in conjunction with Item R7A. Resolution No. 470-2004 adopted. Motion made by Commissioner Garcia; seconded by Commissioner Bower; Voice vote: 5-0; Absent: Commissioners Cruz and Smith. Christina Cuervo to handle.

10:14:38 a.m.

- B A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Appropriating Funds As Follows: \$335,500, From The South Pointe Redevelopment District, In Order To Construct A Surface Parking Lot At 137 Washington Avenue; And \$388,300, From The City Center Redevelopment District, To Provide Upgrades To The 1672 Lenox Avenue Surface Parking Lot.

ACTION: Resolution No. 471-2004 adopted. Motion made by Commissioner Bower; seconded by Vice-Mayor Gross; Voice vote: 6-0; Absent: Commissioner Cruz. Patricia Walker to appropriate the funds. Christina Cuervo to handle.

Meeting adjourned at 10:52:08 p.m.

End of RDA Agenda